

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

November 23, 2010

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No. 08-31099  
Summary Calendar

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Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

LEO LOSTON,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 5:05-CR-50004-ALL

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Before JOLLY, GARZA, and STEWART, Circuit Judges.

PER CURIAM:\*

The Federal Public Defender appointed to represent Leo Loston has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Loston has filed a response in which he argues that the district court erred in denying his 18 U.S.C. § 3582(c)(2) motion because he is eligible for relief under Amendment 706 to the Sentencing Guidelines and because relief was warranted. Loston also seeks the appointment of new counsel. Our independent review of the record, counsel's brief, and Loston's

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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response discloses no nonfrivolous issue for appeal. Accordingly, the motion for leave to withdraw is GRANTED, Loston's motion for the appointment of new counsel is DENIED, counsel is excused from further responsibilities herein, and the APPEAL IS DISMISSED. *See* 5TH CIR. R. 42.2.